

**REMARKS**

**Rejections under 35 USC §102(b)**

**Claims 1-4 were rejected under 35 USC §102(b) as being anticipated by JP 2002-105609 (JP '609).**

Although the Examiner alleges that JP '609 is a §102(b) prior art, the allegation is not correct. The present application is a national stage of PCT application, which was filed on April 7, 2003, which is the US filing date of the present application. The 35 U.S.C. 363 provides as follows:

35 USC §363 International application designating the United States:  
Effect.

An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.

Thus, the filing date of the present application in the United States is April 7, 2003 for the §102(b) purpose. JP '609 was published on April 10, 2002, which is NOT more than one year prior to the "date of the application for patent in the United States."

Also, Applicants of the present application are identical to the inventors of JP '609. Therefore, JP '609 cannot be 35 USC §102(a) prior art because §102(a) requires the invention was "patented or described in a printed publication in this or a foreign country, **before the invention thereof by the applicant** for patent," i.e., the author of the printed publication must be other person(s).

For at least these reasons, JP '609 does not meet the requirements of the prior art provided in 35 USC §102.

Nevertheless, Applicants file declarations under 37 C.F.R. § 1.132 as attached.

Thus, the 35 USC §102(b) rejection has been overcome.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**



Sadao Kinashi  
Attorney for Applicants  
Registration No. 48,075  
Telephone: (202) 822-1100  
Facsimile: (202) 822-1111

SK/ar

Enclosure: Declaration under 37 C.F.R. § 1.132 (for JP2002-105609)  
Declaration under 37 C.F.R. § 1.132 (for attached publication)  
Yamamura et al., *Hydrogen absorption of nanoscale Pd particles embedded in ZrO<sub>2</sub> matrix prepared from Zr-Pd amorphous alloys*, Material Research, Vol.17, No.6 (2002).